



(4310-4J-P)

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Stillaguamish Tribe of Indians – Liquor Control Ordinance

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice

SUMMARY: This notice publishes the Stillaguamish Tribe of Indians' Liquor Control Ordinance. The Ordinance regulates and controls the possession, sale and consumption of liquor within the Stillaguamish Tribe of Indians' Indian country. This Ordinance allows for the possession and sale of alcoholic beverages within the jurisdiction of the Stillaguamish Tribe of Indians, will increase the ability of the tribal government to control the distribution and possession of liquor within their Indian country, and at the same time, will provide an important source of revenue, the strengthening of the tribal government and the delivery of tribal services.

DATES: *Effective Date:* This Ordinance is effective 30 days after [insert date of publication in the FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Betty Scissons, Tribal Government Specialist, Northwest Regional Office, Bureau of Indian Affairs, 911 NE 11th Avenue, Portland, OR 97232, Phone: (503) 231-6723; Fax: (503) 231-6731; or De Springer, Office of Indian Services, Bureau of Indian Affairs, 1849 C Street NW, MS-4513-MIB, Washington, D.C. 20240; Telephone (202) 513-7626.

SUPPLEMENTARY INFORMATION: Pursuant to the Act of August 15, 1953, Public Law 83-277, 67 Stat. 586, 18 U.S.C. 1161, as interpreted by the Supreme Court in *Rice v. Rehner*, 463 U.S. 713 (1983), the Secretary of the Interior shall certify and publish in the **Federal Register** notice of adopted liquor ordinances for the purpose of regulating liquor transactions in Indian country. The Stillaguamish Tribe of Indians' Board of Directors adopted Resolution 2012/019, Re-affirming Resolution 2011-162 Approving and Adopting the Stillaguamish Tribe of Indians Liquor Control Ordinance, with Minor Typographical Changes Herein, on January 31, 2012. This notice is published in accordance with the authority delegated by the Secretary of the Interior to the Assistant Secretary – Indian Affairs. I certify that the Stillaguamish Tribe of Indians' Board of Directors adopted Resolution 2012/019 to enact a new Liquor Control Ordinance on January 31, 2012.

Dated: May 31, 2012

Donald E. Laverdure
Acting Assistant Secretary – Indian Affairs

The Stillaguamish Tribe of Indian Liquor Control Ordinance, as amended, shall read as follows:

GENERAL PROVISIONS

3.06.600 General Purpose

The Stillaguamish Tribe of Indians (Tribe) has a significant interest in protecting the health, safety and general welfare of its members, the residents within the Tribe's Indian Country and those persons and businesses doing business on and/or visiting the Tribe's Indian Country. The purpose of the Ordinance is to exercise the Tribe's jurisdiction to regulate the sale, distribution

and taxation of liquor within the Tribe's Indian Country in conformity with any compact between the Tribe and the State of Washington, Article 10 of the Treaty of Point Elliott of 1855, 12 Stat. 927, to which the Tribe is a party, and in conformity with 18 U.S.C. 1161, and to raise revenues to fund health, safety and general welfare programs and services provided to Tribal members and residents of and visitors to land within the Tribe's territorial jurisdiction.

The authority to protect the Tribe as a sovereign political entity and to adopt the Ordinance codified herein is vested in the Stillaguamish Tribe of Indians, Board of Directors under Article IV and Article VII, Sec. 1 of the Constitution, which Board has enumerated authority under Article VII, Sec. 1 (a) to enact a comprehensive law and order code, which provides for Tribal civil and criminal jurisdiction; under Article VII, Sec. 1 (b) to administer the affairs and assets of the Tribe, including Tribal lands and funds; under Article VII, Section 1 (d) to provide for taxes, assessments, permits and license fees upon members and non-members within the Tribe's jurisdiction; and under Article VII, Sec. 1 (h), to exercise other necessary powers to fulfill the Board's obligations, responsibilities and purposes as the governing body of the Tribe; and in the inherent sovereignty of the Stillaguamish Tribe of Indians to regulate its own territory and activities therein.

The need exists for strict Tribal regulation and control over liquor distribution, sales and taxation within the Tribe's Indian Country. Therefore, in the public interest and for the welfare of the people of the Stillaguamish Tribe of Indians, its employees, the residents of and visitors to Indian Country, the Stillaguamish Board of Directors, in the exercise of its authority under the Tribe's Constitution, declares its purpose by the provisions of this Subchapter to regulate the sale and distribution of liquor.

3.06.601 Scope

- (1) This Subchapter shall apply to the full extent of the sovereign jurisdiction of the Tribe.
- (2) Compliance with this Subchapter is hereby made a condition of the use of any land or premises within the Tribe's Indian Country.
- (3) Any person who resides, conducts business, engages in a business transaction, receives benefits from the Tribe, acts under Tribal authority, or enters the Tribe's Indian Country shall be deemed to have consented to the following:
 - (a) To be bound by the terms of this Subchapter;
 - (b) To the exercise of the exclusive jurisdiction of the Stillaguamish Tribal Court for legal actions arising pursuant to this Subchapter; and
 - (c) To detainment, service of summons and process, and search and seizure, in conjunction with legal actions arising pursuant to this Subchapter.
- (4) No portion of this Ordinance and Subchapter shall be construed as contrary to Federal law.

3.06.602 Repeal of Prior Liquor Control Laws

- (1) All ordinances and resolutions of the Tribe regulating, authorizing, prohibiting or in any way dealing with the sale of liquor heretofore enacted or now in effect, including, but not limited to, Resolution 2007/145 adopting the Stillaguamish Tribe Liquor Ordinance of October 10, 2007, are hereby repealed and are declared to be of no further force and effect, with the exception of the provisions of the Stillaguamish Tribe of Indians Law and Order Code, including, but not limited to, the provisions of Chapter 8.40, Alcohol-Related Offenses.
- (2) The provisions of this Subchapter shall be prospective only from the date of its enactment. Nothing contained herein shall be deemed to revoke any presently existing valid license or permit or renewal thereof previously issued by the Washington State Liquor Control

Board or the exercise of privilege given thereunder to any retailer subject to the provisions of this Subchapter.

3.06.603 Definitions

All definitions of the Taxation Code Section 3.06.201 apply herein unless the terms are otherwise defined in this Subchapter. For purposes of this Subchapter, whenever any of the following words, terms or definitions is used herein, they shall have the meaning ascribed to them in this Subchapter:

- (1) "Indian Country," consistent with the meaning given in 18 U.S.C. § 1151 means: (a) all land within the limits of the Stillaguamish Indian Reservation under the jurisdiction of the United States government, notwithstanding the issuance of any patent, and, including rights-of-way running through the reservation; and (b) all Indian allotments or other lands held in trust for the Tribe or a member of the Tribe, including rights-of-way running through the same.
- (2) "Liquor" means that liquid as now defined as set forth by the Revised Code of Washington in RCW 66.04.010 (1), (3), (25), (26) and (43).
- (3) "Sale" and "sell" means as now defined as set forth by the Revised Code of Washington in RCW 66.04010 (38).
- (4) "Tribal retailer" means a liquor retailer wholly-owned by the Stillaguamish Tribe of Indians and located in Indian Country.
- (5) "Tribally-licensed retailer" means a person who has a business license from the Tribe to sell liquor at retail from a business located in Indian Country.

3.06.604 Stillaguamish Tax Commission

The Board hereby authorizes the Tax Commission of the Stillaguamish Tribe of Indians to administer this Subchapter, including general control, management and supervision of all liquor

sales, places of sale and sales outlets, and to exercise all of the powers and accomplish all of the purposes thereof as hereinafter set forth, and do the following acts and things for and on behalf of and in the name of the Tribe:

(A) Adopting and enforcing rules and regulations for the purpose of carrying into effect the provisions of this Subchapter in the performance of its functions;

(B) Collecting, auditing and issuing fees, licenses, taxes and permits; and

(C) Performing all matters and things incidental to and necessary to conduct its business and carry out its duties and functions under this Subchapter.

LICENSE REQUIRED

3.06.610 License Required of Tribal Retailers and Tribally-licensed Retailers

Every person engaging in the business of selling liquor within the Tribe's Indian Country shall secure a business license from the Tribe in the manner provided for by Subchapter 100 of this Title ("Business Licenses") and otherwise comply with all provisions of Subchapter 100.

3.06.611 Prohibitions

(1) The purchase, sale, and dealing in liquor within the Tribe's Indian Country by any person, party, firm, or corporation except pursuant to the control, licensing, and regulation of the Stillaguamish Tax Commission, is hereby declared unlawful. Without limitation as to any other penalties and fines that may apply, any violation of this subsection is an infraction punishable by a fine of up to five hundred dollars (\$500.00).

(2) Every person engaging in the business of selling liquor within the Tribe's Indian Country shall comply with the provisions of Chapter 8.40, Alcohol-Related Offenses, of the Stillaguamish Tribe of Indians Law and Order Code, the provisions of which are re-affirmed and are specifically incorporated herein by this reference. Any violation of this subsection is

punishable pursuant to the penalty provisions of Chapter 8.40, Alcohol-Related Offenses of the Stillaguamish Tribe of Indians Law and Order Code.

3.06.612 Conformity With State Law As Required

Tribal retailers and Tribally-licensed retailers shall comply with any applicable Washington State liquor law standards to the extent required by 18 U.S.C. § 1161 and the Agreement Between the Washington State Liquor Control Board and the Stillaguamish Indian Tribe for Purchase and Resale of Liquor in Indian Country ("Agreement"), if any. To the extent provisions of this Subchapter conflict with the Agreement, the terms of the Agreement control.

TAXATION

3.06.620 Tribal Liquor Tax

The Tribe expressly reserves its inherent sovereign right to regulate the use and sale of liquor through the imposition of Tribal taxes thereon. The Board hereby authorizes and expressly reserves its authority to impose a Tribal Liquor Tax on sales of all alcoholic beverages, including packaged and retail sales of liquor, wine, and beer, at a rate determined to be fair and equitable by the Board through independent action.

3.06.621 Liquor Sales Not Subject to Tribal Retail Sales Tax

The Tribe's Retail Sales Tax shall not apply to retail sales of liquor.

ADMINISTRATION

3.06.630 Severability

If any section, provision, phrase, addition, word, sentence or amendment of this Subchapter or its application to any person is held invalid, such invalidity shall not affect the other provisions or applications of this Subchapter that can be given effect without the invalid application, and to that end the provisions of this Subchapter are declared severable.

3.06.631 Nondiscrimination

No provision of this Subchapter shall be construed as imposing a regulation or tax that discriminates on the basis of whether a retail liquor establishment is owned, managed or operated by a member of the Tribe.

3.06.632 Effective Date

This Subchapter shall be and become effective after thirty (30) days of publication by the United States Department of the Interior's certification in the Federal Register.

3.06.633 Sovereign Immunity

Nothing in this Subchapter shall be construed as a waiver or limitation of the inherent sovereign immunity of the Tribe.

[FR Doc. 2012-14229 Filed 06/11/2012 at 8:45 am; Publication Date: 06/12/2012]